

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

GILBERT GONZALES, Individually and	§	
on Behalf of All Others Similarly Situated,	§	
PLAINTIFF,	§	
	§	
v.	§	CIVIL ACTION NO. 5:20-CV-568 JKP
	§	
QUALITY RESIDENTIAL & COMMERCIAL	§	
PAINTING, INC. and RICHARD ZARAZINSKI	§	
DEFENDANTS	§	

**JOINT MOTION FOR APPROVAL OF SETTLEMENT AGREEMENT AND
DISMISSAL OF CASE WITH PREJUDICE**

Plaintiff and Defendants file this Joint Motion for Approval of Settlement Agreement and Dismissal of Case with Prejudice and respectfully state:

1. This case was filed under the Fair Labor Standards Act.
2. Plaintiff and Defendants have resolved all issues and have entered into a confidential Settlement Agreement, which is attached as Exhibit A to their Joint Motion for Leave to File Exhibit Under Seal, which is being filed contemporaneously with this motion. The Parties seek this Court's approval of their settlement agreement because this case was filed under the Fair Labor Standards Act. The Parties recognize that in this Court, court approval is not required for the private settlement of FLSA claims where, as in this case, there are bona fide disputes as to the amount of hours worked and the compensation due, if any. *Gonzalez v. Bohls Bearing Co.*, 361 F. Supp. 2d 608, 630 (W.D. Tex. 2005). However, because this is a minority view, the Parties seek Court approval of their agreement. *Sepulveda v. Southwest Business Corp.*, 2009 U.S. Dist. LEXIS 93072 (W.D. Tex. San Antonio Div. 2009).
3. The FLSA requires employers to pay overtime compensation to employees who work more than forty hours in a workweek. 29 U.S.C. § 207(a)(1). The Parties' claims and defenses

alleged in the litigation indicate that bona fide disputes exist regarding the hours worked by Plaintiff and whether Plaintiff exceeded the permissible number of hours worked during the work weeks during the period in question. The parties vigorously dispute the number of hours of overtime in any week that Plaintiff actually worked overtime.

4. Because the Parties' claims and defenses indicate disputes regarding the hours worked by Plaintiff and whether Plaintiff exceeded the permissible number of hours worked during the work weeks during the period in question this Court may find that bona fide disputes exist. The Parties' settlement also takes into account the available documents regarding the claims and defenses. The Parties believe that the settlement is a fair and reasonable resolution of their disputes. The settlement was reached through settlement negotiations conducted by counsel for the Parties over time in arms-length negotiations.

5. The Parties have attached their confidential Settlement Agreement as Exhibit A to their Joint Motion for Leave to File Exhibit Under Seal. The Parties request that the Court find that bona fide disputes exist and that the settlement agreement is a fair and reasonable resolution of the Parties' bona fide disputes.

6. The Parties also request, pursuant to the terms of the settlement agreement, that the Court dismiss all Plaintiff's claims with prejudice to the refiling of same; with each party bearing their own attorney's fees and costs.

WHEREFORE, PREMISES CONSIDERED, the Plaintiff and Defendants request that the Court grant this motion and find that the Parties' settlement agreement is a fair and reasonable resolution of the Parties' bona fide disputes and dismiss all Plaintiff's claims with prejudice to the refiling of same.

Respectfully Submitted,

SANFORD LAW FIRM PLLC.

650 S. Shackleford Road, Suite 411
Little Rock, AR 72211
Tel: (501) 221-0088
Fax: (888) 787-2040

By: /s/ Josh Sanford

Josh Sanford
Texas State Bar No. 24077858
josh@sanfordlawfirm.com
Merideth Q. McEntire
Texas Bar No. 24105123
merideth@sanfordlawfirm.com

ATTORNEYS FOR PLAINTIFF

HOLLAND & HOLLAND, LLC

North Frost Center
1250 N.E. Loop 410, Suite 808
San Antonio, Texas 78209
Telephone: (210) 824-8282
Facsimile: (210) 824-8585

BY /s/ John A. Heller

John A. Heller
State Bar No. 09394600
jheller@hollandfirm.com
Michael L. Holland
State Bar No. 09850750
mholland@hollandfirm.com

ATTORNEYS FOR DEFENDANTS

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

GILBERT GONZALES, Individually and	§
on Behalf of All Others Similarly Situated,	§
PLAINTIFF,	§
	§
v.	§ CIVIL ACTION NO. 5:20-CV-568 JKP
	§
QUALITY RESIDENTIAL & COMMERCIAL	§
PAINTING, INC. and RICHARD ZARAZINSKI	§
DEFENDANTS	§

**ORDER GRANTING JOINT MOTION FOR APPROVAL OF SETTLEMENT
AGREEMENT AND DISMISSAL OF CASE WITH PREJUDICE**

The Court having considered Plaintiff and Defendants' Motion for Approval of Settlement Agreement and dismissal of Case with Prejudice and after having considered the Parties confidential settlement agreement and having found that bona fide disputes exist regarding the hours worked by Plaintiff and whether Plaintiff exceeded the permissible number of hours worked during the work weeks during the period in question, is of the opinion that the motion should be GRANTED. It is therefore,

ORDERED that the Settlement Agreement between the Plaintiff and Defendants filed under seal is hereby approved as a fair and reasonable resolution of the Parties' bona fide disputes. It is further

ORDERED, ADJUDGED AND DECREED that all claims of Plaintiff Gilbert Gonzalez are hereby dismissed with prejudice to the refiling of same, with each party bearing their own attorney's fees and costs incurred be taxed against the Party incurring. All relief not expressly granted herein is dismissed.

SIGNED and ENTERED on the _____ day of _____, 2020.

UNITED STATES DISTRICT JUDGE